

Draft Proposed Board Order



STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DRAFT

CENTRAL MAINE POWER COMPANY) SITE LOCATION OF DEVELOPMENT ACT
78 Municipalities (listed in Appendix A)) NATURAL RESOURCES PROTECTION ACT
13 Counties (listed in Appendix A)) WATER QUALITY CERTIFICATION
MAINE POWER RELIABILITY PROGRAM)
L-24620-26-A-Z)
L-24620-TG-B-Z)
L-24620-VP-C-Z) APPEAL OF MARY FOURNIER AND
L-24620-IW-D-Z) DAVID FOURNIER
L-24620-L6-E-Z) FINDINGS OF FACT AND ORDER
APPEAL DENIAL)
WITH MODIFICATION)

Pursuant to the provisions of 38 M.R.S.A. Sections 344 (2-A) and 341-D (4) and Chapter 2, Section 24 (B) of the Department of Environmental Protection's regulations, the Board of Environmental Protection has considered the appeal of MARY FOURNIER AND DAVID FOURNIER, the material filed in support of the appeal, the response of the licensee, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION AND PROCEDURAL HISTORY:

On June 12, 2009, CENTRAL MAINE POWER COMPANY (applicant or licensee) filed a Site Location of Development Act (Site Law) application and four Natural Resources Protection Act (NRPA) applications for a permit to upgrade its electrical transmission corridor in a project known as the Maine Power Reliability Program (MPRP), which encompasses 78 municipalities in 13 counties.

The licensee proposed to upgrade 354 miles of existing electrical transmission corridor that runs between the Towns of Eliot and Orrington and to construct an additional 6.4 miles of new electrical transmission corridor. The project consists of upgrading existing transmission systems to 345 kilovolt (kV) and 115 kV, rebuilding existing 345 kV and 115 kV lines, and constructing or expanding 13 substations. The licensee stated that the purpose of the proposed project is to make necessary improvements to the existing bulk power transmission system to ensure compliance with federally mandated power transmission system standards and to continue to provide reliable power and service to its customers. The licensee further stated that the existing transmission system is presently at the limits of its technical and physical ability to meet the growing demand of Maine customers and the reliability standards established by the North American Electric Reliability Corporation (NERC), the Northeast Power Coordinating Council (NPCC) and the Independent System Operator of New England (ISO-NE).

Both the proposed 115 kV lines and 345 kV lines will be supported on a variety of pole structures, depending on site conditions. The types of poles include single pole structures, H-frame structures, and lattice structures. The typical height of single pole structures will range between 125 feet and 135 feet. The height of a typical H-frame structure is 84 feet. Lattice structures are used at major crossings, such as river crossings, and can range in height between 140 feet and 350 feet tall.

During the Department's review of the applications, numerous letters from interested property owners within the geographic range of the project were received that described specific concerns associated with the proposed project. Because of the size and scope of the project, the Department conducted three public meetings in accordance with 38 M.R.S.A § 345-A(5) in order to provide all interested parties an opportunity to ask questions and submit information to the Department. The public meetings were held on September 15, 2009 in the Town of Belfast, on September 16, 2009 in the City of Lewiston, and on September 17, 2009 in the City of Saco.

Department records indicate that the appellants did not speak or submit written comments at any of the public informational meetings. During the Department's review of the applications, the appellants reviewed the project file at the Department's Southern Maine Regional Office and submitted a number of comments by e-mail to Department staff.

The appellants are particularly concerned about the proposed construction within the transmission line corridor of the southern portion of Segment 27. This segment extends a distance of approximately 19 miles through the towns of Eliot, South Berwick, North Berwick, Wells, and Kennebunk. The existing transmission line corridor currently varies in width from approximately 150 feet to 340 feet. Segment 27 contains two existing 115 kV transmission lines: Section 197 supported on a single pole, and Section 250 supported on an H-frame structure. The licensee proposes to relocate Section 250 to the center of the right-of-way and construct a new 345 kV line along the southeastern right-of-way boundary, which will be called Section 3022. In the vicinity of the appellants' property, both the relocated 115 kV transmission line and the proposed 345 kV transmission line will be supported on single pole structures.

The applications were approved by the Department on April 5, 2010.

On May 4, 2010, MARY FOURNIER AND DAVID FOURNIER filed an appeal of the Department's decision to the Board.

2. STANDING:

MARY FOURNIER AND DAVID FOURNIER own property in the Town of Eliot, are direct abutters to the MPRP, and described specific concerns regarding the project. The Board finds that these individuals have demonstrated standing as aggrieved persons as defined in Chapter 2, Section 1(B) and may bring this appeal before the Board.

The appellants properly demonstrated their standing; therefore, the Board proceeds to the merits of the appeal.

3. FINDINGS AND CONCLUSIONS OBJECTED TO AND BASIS FOR APPEAL:

The appellants object to and assert that the Department erred in the following findings and conclusions:

- A. Title, Right, or Interest- The licensee demonstrated sufficient title, right, or interest in all of the property which is proposed for development or use;
- B. Groundwater Quality- The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur;
- C. Scenic Character and Vegetation Management (Buffers)- The licensee has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities; and the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses;
- D. Wildlife;
- E. Stormwater Management/Erosion Control- The proposed development meets the standards for storm water management in Section 420-D and the standard for erosion and sedimentation control in Section 420-C; and

The appellants also contend that the Department erred by failing to require the licensee to comply with the Maine Slash Law, 12 M.R.S.A. § 9333, and that the proposed project will have an unreasonable adverse impact on the value of their personal property.

4. REMEDY REQUESTED:

The appellants request that the Board hold a public hearing and reverse the April 5, 2010 Department decision approving a permit for the construction of the MPRP.

5. REQUEST FOR A PUBLIC HEARING:

The permit applications were filed on June 12, 2009 and the Department subsequently received one written request for the Board to take original jurisdiction over the project, from a person other than the appellants; however, this request was later withdrawn. The appellants did not request a public hearing during the Department's processing of the applications.

During the ten-month period of the review of the applications, the appellants had the opportunity to present information and argument to the Department both at the public meetings and through submittal of additional information during the review process. The

appellants did not submit credible conflicting information on technical issues to the Department during that time.

The Board finds that the record is adequately developed with regard to the statutory criteria, that the appellants had ample opportunity to submit technical and other evidence while the Department was processing the applications, and that the appellants have not demonstrated that there is sufficient conflicting technical evidence on a licensing criterion to warrant a public hearing.

6. DISCUSSION AND RESPONSE TO APPEAL:

A. TITLE, RIGHT, OR INTEREST:

The appellants assert that the licensee does not have sufficient title, right, or interest in the property proposed for development or use because the licensee did not readily provide title, right, or interest documentation to the public during the Department's licensing review process.

Chapter 2, § 11(D) requires that an applicant demonstrate to the Department sufficient title, right, or interest in all of the property that is proposed for development or use. For these applications, the licensee submitted a listing of all of the affected properties, and because of the number of deeds, leases, easements and options for purchase on this project, the licensee submitted the documentation to the Department on a compact disc within the application. Also, in accordance with 35-A M.R.S.A. §3136 and Chapters 2(11)(D)(4) and 372 (9)(D) of the Department's Rules, in the Title, Right or Interest section of the application, the licensee represented that it has eminent domain authority to take lands necessary for the project and that it will use that authority if necessary land or rights cannot be obtained through agreements with public and private landowners.

The Board has considered the information contained in the permitting record, the arguments of the appellants, and the licensee's response to the appeal. The Board finds that the evidence demonstrates that the licensee either owns the properties on which the MPRP will be located, has obtained easements on the properties, has secured an option to buy the properties within the proposed project area, and, if none of these options is available, has the authority to assert eminent domain.

With respect to public access to information, all records submitted to the Department are available to the public for review pursuant to 1 M.R.S.A. §§ 401-410. Because of the project's broad geographic range, the applications were made available for public review in each of the Department's regional offices. The appellants met with Department staff on March 16, 2010 and viewed the Department record at that time.

Given that the application was maintained at several regional offices and that the appellants availed themselves of the opportunity to view the permitting record on March

16, 2010, the Board finds that the Department record was adequately made available to the public and to the appellants for review.

B. GROUNDWATER QUALITY:

The appellants contend that the licensee has not adequately made provisions to protect their personal well water supply area. The appellants state that an unnamed stream supplies their water and/or is in close proximity to the source of their water supply. The appellants assert that disruption to this stream will adversely affect their water supply. The appellants did not provide the specific location of their well to the Department.

According to the project plans, the closest stream is approximately 900 feet from the appellants' house and is located in the middle of an emergent marsh that also happens to be designated and rated as moderate value Inland Wading Bird and Waterfowl Habitat (IWWH). Because of the number of private water supply wells adjacent to the transmission line right-of-way, the Department required that the licensee comply with the document entitled "Vegetation Management Practices: Maine Power Reliability Program (last revised March 31, 2010" (Amended VMP). The Amended VMP applies during project construction and during long term vegetation maintenance. They restrict the types of herbicides and surfactants that can be used on the project site and restrict the use of herbicides adjacent to known water supply wells, surface water, and springs. They also prohibit refueling of vehicles or equipment, storage of fuel, or parking and maintenance of vehicles within 200 feet of a private water supply.

The stream at issue and the wetland in which it is located will be crossed by a temporary construction access road in the licensee's right-of-way on or nearby the appellants' property. The temporary access road will cross the stream in accordance with the standards outlined in the Amended VMP, which encourage the use of timber mats and bridges. The permit requires the oversight by a third party inspector to oversee overall project construction. In addition, the locations of all temporary access roads will be restored to original conditions after project construction.

The Board has considered the information contained in the permitting record, the arguments of the appellants, and the licensee's response to the appeal. Certain aspects of the VMP protections only apply within 100 feet or 200 feet of a known private water supply, depending on the type of activity. Therefore, in response to the appellants' concerns and to ensure that the project construction does not adversely affect the appellants' well, the Board finds that if the appellants provide the location of their well to the licensee within 60 days of the date of this Order, by marking it on a survey plan or flagging it in the field, the licensee will then be required to follow the guidelines in the Amended VMP in the area of known wells.

Given that the licensee is required to follow the Amended VMP, that the temporary access road which is proposed for the appellants' property but within the licensee's right-of-way will be restored to its original condition, and that there will be weekly inspections

and reports to the Department from the third party inspectors, the Board finds that the project includes adequate protection measures for the appellants' water supply well and will not unreasonably adversely affect groundwater.

C. SCENIC CHARACTER AND VEGETATION MANAGEMENT (BUFFERS):

The appellants contend that the project will cause an unreasonable visual impact on their personal property, the Eastern Trail, and nearby roads that regularly have a high amount of traffic. The appellants state that the dominant view from these locations will become pole structures. The appellants assert that these pole structures are visually unreasonable and will adversely impact their quality of life.

The southern portion (8.5 miles) of Segment 27, within which the appellants' property is located, will extend from the Quaker Hill substation in North Berwick and the Three Rivers substation in Eliot and contains one existing 115 kV transmission line supported by single pole structures and one existing 115 kV transmission line supported on an H-frame structure. In the vicinity of the appellants' property, the single pole structures for the relocated 115 kV line will be approximately 75 feet tall and the single pole structures supporting the 345 kV transmission line will be approximately 95 feet tall.

Department staff visited the area where the existing transmission line corridor traverses the rear of the appellants' property and observed that the appellants maintain their property, including the right-of-way, as mowed lawn. A review of a photograph taken by Department staff on March 31, 2010 shows that there are no trees or shrubs between the appellants' house and the transmission line. Therefore, the appellants currently have unobstructed views of the existing transmission lines and their support poles. The licensee proposes to place the relocated 115 kV transmission line and the proposed 345 kV transmission line on the opposite side of both the existing 115 kV transmission line and the appellants' house, and in the vicinity of the support poles of the existing 115 kV transmission line. The appellants will be able to see the new transmission lines and support poles from their house; however, based on the photograph, the view from their home will not change substantially.

Land use in the vicinity of the corridor consists primarily of undeveloped woodland, open fields, several quarries, and low density residential areas. There are several residential subdivisions and commercial business adjacent to the corridor. The licensee conducted a visual impact assessment which evaluated the following "scenic resources" as defined in Chapter 315(5)(H) that are located in Segment 27: Kennebunk Plains Wildlife Management Area and Branch Brook in Kennebunk; the Eastern Trail, Wells Heath, and West Stream in Wells; Dennett Brook, Great Works River, Hussey Brook, and views of Mount Agamenticus in North Berwick; the Eastern Trail, Knights Brook, Knights Pond, Great Works River, and Lord Brook in South Berwick; and Shoreys Brook in Eliot.

The results of the licensee's visual impact assessment, prepared by Terrance J. DeWan and Associates and submitted as Exhibit 6.2 in the application, concluded that potential

visual impacts to scenic resources in the area of Segment 27 of the MPRP are anticipated to be minor to moderate; and potential visual impacts to residents and the recreating and working population are anticipated to be minor, because the existing transmission line corridor currently contains two transmission lines.

To mitigate potential visual impacts to scenic uses related to roads, roadside buffers were proposed for four areas within Segment 27; however, these four areas are not in the vicinity of the appellants' property. Buffers were proposed along the north side of Maguire Road in Kennebunk, the north side of Dennett Road in North Berwick, and the north side of Emery's Bridge Road in South Berwick. The existing buffers along Route 236 in South Berwick were proposed to be preserved and enhanced near the shoulder of the road. This mitigation was proposed by the licensee to minimize views into the transmission corridor and to offset proposed visual changes from activities of the MPRP. The licensee determined where to install roadside buffers by using criteria of the licensee's visual impact assessment which includes the type of road and number of viewers; degree of visible changes to the existing conditions; the length of time that a motorist will see the transmission line; existing screening vegetation to be removed; and alignment of transmission corridor.

During the Department's review of the applications, in response to the appellants' expressed concern about the potential visual impacts to their property and nearby scenic resources that may result from the project's construction, the Department staff conducted a site visit to the southern portion of Segment 27 of the project where it crosses the appellants' property. The Department staff examined existing development on and around the appellants' property and characteristics of interest pertaining to this portion of Segment 27.

Impacts to scenic and aesthetic uses of scenic resources were evaluated pursuant to 38 M.R.S.A. § 484(3) of the Site Law, as interpreted by Chapter 375(14) and 38 M.R.S.A. § 480-D (1) of the Natural Resources Protection Act as interpreted by Chapter 315 of the Department's regulations. Section 484(3) and the underlying Site law regulation, Chapter 375(14), apply to the assessment of the impact of a project on existing uses and scenic character of the area. The "No Unreasonable Effect on Scenic Character" standard of the Site Law requires the Board to consider evidence related to the development's design in the context of the surrounding area, and if the development is not in keeping with the surrounding area, it must be designed to minimize its visual impact. The primary measure that the licensee utilized to mitigate for potential visual impacts throughout the entirety of the project area was to co-locate the project within or directly adjacent to the existing transmission corridor to the extent practicable, and co-location will be done on the appellants' property as well, rather than creating a new swath of cleared area.

Section 480-D (1) of the NRPA applies to impacts to existing scenic and aesthetic uses of a protected natural resource, such as a wetland or a stream, and the underlying regulation, Chapter 315, focuses on the assessment of the impact of a project on uses of a protected

natural resource as viewed from a public viewpoint. Under Chapter 315, the Department considers the type of the proposed activity in relation to its view from scenic resources, which are defined as public lands that are usually visited by the general public, in part for the purpose of enjoying their visual quality. The list of scenic resources includes, in part, national natural landmarks, state or national wildlife refuges, state or federally designated trails, properties eligible for inclusion in the National Register of Historic Places, national or state parks, and other public lands visited by the general public such as great ponds or the Atlantic Ocean. The appellants' property was not considered by the Department to be a scenic resource as defined by Chapter 315.

The Board has considered the appellants' arguments and the evidence in the record related to scenic character and potential adverse visual effects of the MPRP. The Board finds that the licensee's visual impact assessment is credible in its methodology and accuracy to designate, categorize, and assess scenic resources of regulatory significance and potential visual impacts to the impacted scenic resources, and that the Department acted appropriately in not considering the appellants' property a scenic resource in the context of Chapter 315. The Board finds credible the results of the licensee's visual impact assessment as it relates to Segment 27, which rates the scenic impacts in the area of the appellants' property as minor to moderate, and the fact that the licensee proposes to mitigate for potential visual impacts by planting vegetative buffers in specified areas of Segment 27, the Board finds that the design of the project with the MPRP upgrade work in the area of the appellants' property occurring within the existing transmission corridor and further from the property than the existing transmission lines adequately provides for fitting the proposed project into the natural environment in that it was located and designed to minimize its visual impact to the fullest extent possible as required by Chapter 375(14)(B)(2). The Board also finds that the licensee has adequately assessed the proposed project's potential impacts under the NRPA and has demonstrated that the project will not significantly compromise scenic uses of a protected resource, or views from a scenic resource or other points of local interest. The Board finds that the MPRP will not have an unreasonable adverse effect on existing scenic, aesthetic, recreational, or navigational uses, and on the scenic character or existing uses related to scenic character of scenic resources.

D. WILDLIFE:

The appellants contend that the MPRP construction access roads will adversely affect resident wildlife such as deer, wild turkey, fox, and other wildlife that inhabit the appellants' land and other nearby areas. In the application, the licensee specified the locations of significant wildlife habitats as that term is defined in the NRPA, 38 MRSA §480-B(10). None were identified in the area of the appellants' land.

The Department requested comments from the Department of Inland Fisheries and Wildlife (MDIFW) during the review of the project. The wetland to the northeast of the appellants' property is mapped as a moderate value Inland Wading Bird and Waterfowl Habitat and is more than 200 feet away. There are no other Significant Wildlife Habitats

or mapped deer wintering areas, as defined in the NRPA, in the immediate area. As discussed above, the approved project plans show the locations of the temporary construction access roads. One proposed temporary road will cross the nearby stream, and the Inland Wading Bird and Waterfowl Habitat, which is the Significant Wildlife Habitat nearest to the appellants' property. However, the road crossing of the stream will be constructed and then restored in accordance with the Amended VMP. The nearest proposed access to the appellants' home is approximately 200 feet away. The licensee stated that the temporary access roads were designed to support construction activities, but will be removed post-construction. The area will then be restored to natural conditions.

The licensee responded to the appellant's assertion that the MPRP would negatively affect local wildlife by describing the analyses that were done to evaluate wildlife resources in the MPRP project area, including fisheries, significant wildlife habitats and rare, threatened and endangered species, and the proposed measures to protect wildlife and wildlife habitat. These measures include, among other things, implementation of the Amended VMP, culvert restrictions, use of aviation marker balls and implementation of an incidental take plan to avoid and minimize the incidental take of endangered or threatened species.

During the Department's review of the MPRP application, the Department worked closely with MDIFW to develop the Amended VMP. MDIFW submitted review comments related to vernal pools, Inland Wading Bird and Waterfowl Habitats, deer wintering areas, and rare, threatened and endangered species. After an extensive review, MDIFW concluded that, with implementation of the Amended VMP and a number of recommendations with respect to culvert installations, provisions for the protection of bald eagles, and wetland and significant wildlife habitat compensation, the MPRP was designed to minimize impacts to wildlife and fisheries habitats.

The Board has considered the licensee's plans and the VMP contained in the permitting record, the arguments of the appellants, and the licensee's response to the appeal. Based on the temporary nature of the access roads and the licensee's requirement that the project be carried out in compliance with the Amended VMP, and based on MDIFW comments, the Board finds that the proposed project will not unreasonably harm wildlife habitats in the project area.

E. STORMWATER MANAGEMENT/EROSION CONTROL:

The appellants argue that the Department erred by failing to require more than four third party inspectors to monitor the construction and stabilization activities of the project. The appellants also state that the licensee did not adequately restore the right-of-way on their property after the construction of a different transmission line project (Section 197, approved by the Department in Order #L-24199-TE-A-N, dated October 29, 2008), which affected wetland areas on or adjacent to their property.

In support of its application, the licensee submitted an erosion and sedimentation control plan for the MPRP project, which was reviewed by the Department's Bureau of Land and Water Quality's Division of Watershed Management. The licensee proposed to use standard erosion and sedimentation controls found in the Maine Erosion and Sediment Control Best Management Practices (BMPs) dated March 2003 during project construction. The proposal includes the complete removal of all temporary access roads after project construction, the re-grading of those areas to match original conditions, and the establishment of vegetation similar in type to the previously existing vegetation. In order to help oversee the construction of the project and maintain compliance with the Department's license, the permit issued requires that the licensee retain the services of at least four third party inspectors in accordance with Special Condition #23 pertaining to the Third Party Inspection Program. The Third Party Inspection Program for this project requires that each third party inspector be responsible for no more than 100 linear miles of transmission line corridor and no more than four substations at any one time. The licensee submitted a letter dated November 13, 2009, which includes a list of seven qualified, potential third party inspectors for this project and a statement that the licensee will establish a pool of third party inspectors to use throughout the project. The Department approved the list and determined that a minimum number of inspectors would be required given the size of the project. If the scope of the area under construction at any given time is such that four inspectors cannot visit the project area under construction in one week, then additional third party inspectors will be required to oversee portions of the project.

According to the Special Condition for the Third Party Inspection Program, the purpose of the third party inspectors is to ensure that all construction and stabilization activities comply with the permit conditions and the Department-approved drawings and specifications, to ensure that field decisions regarding erosion control implementation, stormwater system installation, and natural resource protection are based on sound engineering and environmental considerations, and to ensure communication between the contractor and the Department regarding any changes to the development's erosion control plan, stormwater management plan, or final stabilization plan. The responsibility of the third party inspector is to make weekly visits to the project site (or more frequently if weather conditions dictate), report to the Department on the erosion and sedimentation control efforts and problems encountered during the inspection, if any, and recommend any necessary corrective measures which should be taken.

The allegation that the licensee failed to comply with the 2008 permit by inadequately restoring the right of way on the appellants' property is an enforcement matter; however in light of that description, the third party inspectors and the Department will carefully monitor the licensee's compliance with the restoration requirements of this permit. The Board finds that it is generally reasonable to expect that one inspector can visit 100 miles of transmission line corridor and four substations in one week and that the Department has required a sufficient minimum amount of third party inspectors to oversee the construction and stabilization activities associated with the MPRP. However, the Board further finds that the licensee may need to hire additional third party inspectors if the

scope of the project proves to be too much for four inspectors to visit for the required weekly inspections. The Board acknowledges that Department staff oversees the third party inspectors and recommends that Department staff direct the licensee to hire additional inspectors if the project proves to be too large for four inspectors to visit on a weekly basis.

Based on the licensee's approved erosion and sedimentation control plan and stormwater management plan, and the Division of Watershed Management's review of those plans, and the requirements of the Third Party Inspection Program as a safeguard, the Board finds that the licensee adjacent wetland and waterbodies will be adequately protected from erosion and sedimentation.

F. OTHER CONSIDERATIONS:

- A. The appellants contend that the Department erred by failing to require the applicant to comply with Maine's law pertaining to the disposal of slash, 12 M.R.S.A. § 9333. That law is administered by the Department of Conservation and requires slash to be minimal or removed from the site of the construction or maintenance of a transmission line to lessen the potential for forest fires.

In its applications, the licensee proposal and plans stated that the project would be constructed in compliance with the Slash Law. An earlier version of the Department's Amended VMP required the licensee to leave piles of slash within Inland Wading Bird and Waterfowl Habitat areas to enhance wildlife use. The licensee was concerned that the Amended VMP would require non-conformance with the Slash Law. As a result, the Department reconsidered the Amended VMP in the context of the requirements of the Slash Law and revised the document so that the project could be in compliance with both the Amended VMP and the Slash Law.

The authority to enforce the Slash Law rests with the Department of Conservation; however the Department will share with the Department of Conservation any reports from the third party inspectors or its own site inspections that may indicate a violation of that law during the construction of the MPRP.

- B. The appellants assert that the proposed project will have an unreasonable adverse impact on the value of their personal property.

The Board does not have authority to consider potential impacts to property values, as its mandate from the Legislature is to determine whether a proposed project in need of permits under the Site Law and the Natural Resources Protection Act meets the licensing criteria set forth in those laws and the underlying regulations.

- C. The appellants also contend that the proposed project will violate certain aspects of the ordinances of the Town of Eliot. As the Chair stated in her letter dated June 18, 2010 ruling on proposed supplemental evidence, the Board does not assess compliance with

local ordinances in the context of these permit applications and thus will make no findings on those issues raised by the appellants.

Based on the above findings, the Board concludes that:

1. The appellants filed a timely appeal.
2. The Board denies the request for a public hearing for this appeal.
3. The licensee's project to upgrade its electrical transmission corridor collectively in a project known as the Maine Power Reliability Program meets the criteria for a permit pursuant to the Site Location of Development Act, 38 M.R.S.A. § 484 and the Natural Resources Protection Act, 38 M.R.S.A §480-D.
4. If the appellants provide the location of their well to the licensee within 60 days of the date of this Order, by either marking it on a survey plan or flagging it in the field, the licensee will then be required to follow the guidelines in the Amended VMP in the area of their well.
5. Department staff will oversee the third party inspectors and will require the licensee to hire additional third party inspectors if the project is too large for four inspectors to visit on a weekly basis.

THEREFORE, the Board AFFIRMS the Department's approval of the permit applications filed by CENTRAL MAINE POWER COMPANY to upgrade its electrical transmission corridor in Department Order #L-24620-26-A-N/L-24620-TG-B-N/L-24620-VP-C-N/L-24620-IW-D-N/L-24620-L6-E-N, with the MODIFICATIONS set forth in Findings 4 and 5 above. The Board DENIES the appeal of MARY FOURNIER AND DAVID FOURNIER.

DONE AND DATED AT AUGUSTA, MAINE, THIS _____ DAY OF _____, 2010.

BOARD OF ENVIRONMENTAL PROTECTION

By:

Susan M. Lessard, Chair

Appendix A

MPRP Municipalities Organized by County
78 Municipalities / 13 Counties**Androscoggin County**

Auburn
Durham
Greene

Appendix A

MPRP Municipalities Organized by County
78 Municipalities / 13 Counties**Androscoggin County**

Auburn
Durham
Greene
Leeds
Lewiston
Livermore Falls
Minot
Wales

Cumberland County

Cumberland
Gorham
New Gloucester
North Yarmouth
Pownal
Scarborough
South Portland
Westbrook
Yarmouth

Franklin County

Jay

Hancock County

Bucksport

Kennebec County

Albion
Augusta
Benton
Chelsea

L-24441-24-A-Z/L-24441-TF-B-Z

14 of 16

China
Clinton
Farmingdale
Gardiner
Litchfield
Monmouth
West Gardiner
Windsor
Winslow

Knox County

Appleton
Warren
Washington

Lincoln County

Jefferson
Somerville
Waldoboro
Whitefield
Wiscasset

Oxford County

Canton
Dixfield
Peru
Rumford

Penobscot County

Dixmont
Orrington
Plymouth

Sagadahoc County

Bowdoinham
Woolwich

Somerset County

Cornville
Detroit
Madison
Pittsfield
Skowhegan

Waldo County

Belfast
Brooks
Burnham
Frankfort
Liberty
Monroe
Montville
Morrill
Prospect
Searsmont
Searsport

L-24441-24-A-Z/L-24441-TF-B-Z

16 of 16

Stockton Springs

Swanville

Troy

Waldo

Winterport

York County

Arundel

Biddeford

Eliot

Kennebunk

North Berwick

Saco

South Berwick

Wells

